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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,255	09/16/2003	Joseph L. Kennedy	72449-022	2865

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HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

EXAMINER

DESIR, JEAN WICEL

ART UNIT	PAPER NUMBER
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2622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/663,255

Applicant(s)

KENNEDY, JOSEPH L.

Examiner

Jean W. Désir

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/31/07 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-32, 35 and 36 is/are allowed.
- 6) ☒ Claim(s) 33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (US 6,351,289) in view of Gadre et al (US 5,995,161).

Claim 33:

Chen discloses:

“a Vertical Blanking Interval (or VBI) size in an On Screen Display memory; a Vertical Blanking Interval position in an On Screen Display memory”, see Fig. 2 item 24, col. 5 line 52 to col. 6 line 8, col. 6 lines 45-57;

“a Vertical Blanking Interval luma waveform bitmap”, see Fig. 7, col. 7 lines 22-24, 66-67;

“and a Vertical Blanking Interval luma waveform bitmap overlay algorithm configured to overlay said Vertical Blanking Interval luma waveform bitmap in a digital video signal according to the gray scale palette, size and location data stored in said On Screen Display memory”, see Fig. 2 item 26, col. 5 lines 17-27;

the difference between the claimed invention and Chen's disclosure is that the data structure of Chen does not explicitly comprise “a gray scale palette in an On

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Screen Display (OSD) memory” as claimed. However, the structure of the claimed invention is a notoriously well known technique in the art, as evidence see Gadre at col. 6 lines 38-44, col. 10 lines 9-17, used to add detail to images; an artisan would be motivated to modify Chen in view of Gadre and implement this existing technique to arrive at the claimed invention, because this technique is readily available to the designer and advantageously would enhance the appearance of images. Therefore, the claimed invention would have been obvious to a person of ordinary skill in the art at the time the invention was made.

Claim 34 is rejected for the same reasons as claim 33.

Response to Arguments

3. Applicant's arguments have been fully considered but they are not persuasive.

The Applicant argues on pages 14-16 of the REMARKS that “This discussion in no way teaches, suggests or is otherwise related to (i) sizing a VBI area, (ii) locating a VBI area, or (iii) the use of OSD memory to store such data. There is no mention of sizing or locating a VBI area, or of storing such size and location to any manner of memory. Although the sine wave characteristic table would likely be stored in some form of memory, the Chen patent does not teach or suggest that OSD memory should or even could be used. Moreover, there is no mention of OSD hardware anywhere in the Chen patent”. Contrary to the Applicant's arguments: sizing a VBI area is clearly taught by Chen because Chen disclosed a scalar signal for **scaling (sizing)** the VBI, and only a quarter of a sine wave (VBI coding waveform) needs to be stored, as pointed

out in the rejection (see specifically col. 5 line 65 to col. 6 line 8, col. 6 lines 55-57); locating a VBI area is clearly taught by Chen because Chen disclosed generating **address (or location, position)** for the VBI data as pointed out in the rejection (see specifically col. 6 lines 45-47, col. 5 lines 35-43). And regarding the use of OSD memory, the reference to Gadre has been used in the rejection; the Applicant has not addressed the Gadre reference in the arguments.

Allowable Subject Matter

4. Claims 8-32, 35, 36 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean W. Désir whose telephone number is (571) 272 7344. The examiner can normally be reached on 5/4/9 - First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272 7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD
Apr. 3, 07

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal line extending to the right.

DAVID OMETZ
SUPERVISORY PATENT EXAMINER